

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Juan Mendez,)	Case No. 6:19-cv-00539-DCC-KFM
)	
Plaintiff,)	
)	
v.)	ORDER
)	
C/O Glover, C/O Cook, C/O Cleveland,)	
C/O Houser, Sgt. Brown,)	
)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff's Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). By Order dated March 29, 2019, service was authorized on the Defendants; on May 2, 2019, the summons was returned unexecuted for Defendants C/O Glover, C/O Houser, and Sgt. Brown. ECF Nos. 12, 17. The Magistrate Judge gave Plaintiff an opportunity to provide additional information necessary to accomplish service; however, Plaintiff failed to adequately respond to the Order.¹ See ECF No. 19, 25. On

¹ On July 8, 2019, Plaintiff provided a new Form USM-285 for C/O Houser, ECF No. 34; however, he failed to provide any additional information that would assist in accomplishing service. Plaintiff has not provided any additional service documents for information for C/O Glover or Sgt. Brown.

July 9, 2019, the Magistrate Judge issued a Report recommending that these Defendants be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 4(m). ECF No. 36. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. Defendants C/O Houser, C/O Glover, and Sgt. Brown are dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

August 2, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.